

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GERMAN FREE STATE OF
BAVARIA, *et al.*,

Case No. 1:06-cv-407

Plaintiffs,

Hon. Richard Alan Enslen

v.

TOYOBO CO., LTD, *et at.*,

ORDER

Defendants.

This matter is before the Court on Plaintiffs German Free State of Bavaria and German State of North Rhine-Westphalia's Motion for Reconsideration of Order to Strike First Amended Complaint pursuant to Local Rule 7.4. LCivR 7.4(a).

Plaintiffs claim defect in the Court's previous finding that Plaintiffs were required and failed to seek leave of the Court before filing their Amended Complaint. The Court agrees. Where a Motion to Dismiss is pending but no responsive pleading has been filed, leave of the Court to file an Amended Complaint is not required. *See Youn v. Track Inc.*, 324 F.3d 409, 415 & n.6 (6th Cir. 2003).

THEREFORE IT IS HEREBY ORDERED the Plaintiffs' Motion for Reconsideration of Order to Strike First Amended Complaint (Dkt. No. 41) is **GRANTED**.

IT IS FURTHER ORDERED that the Order of October 18, 2006 Striking Plaintiffs' Amended Complaint (Dkt. No. 40) be **VACATED**.

IT IS FURTHER ORDERED that Plaintiffs' Motion for Leave to File First Amended Complaint (Dkt. No. 46) is **GRANTED**.

Dated in Kalamazoo, MI:
October 30, 2006

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge